

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

JUANA MELGAREJO,	§	
	§	
Plaintiff,	§	
	§	
v.	§	CIVIL ACTION NO. 3:07-CV-1847-B
	§	
24 HOUR PROFESSIONAL	§	
JANITORIAL SERVICES, LP and	§	
ROLAND MORRIS MILLER III,	§	
	§	
Defendants.	§	

**MEMORANDUM ORDER**

Having considered Defendants' Motion to Dismiss the Amended Complaint under Federal Rules of Civil Procedure 12(b)(1), 12(b)(2), and 12(b)(6), the Court **DENIES** Defendants' Motion (doc # 16) in its entirety. Defendants' Motion is a virtually verbatim repetition of its previous Motion to Dismiss (doc #12) which was denied in its entirety in the Court's Order dated April 8, 2008 (doc #14).

In the Court's Order dated April 8, 2008, the Court found that Plaintiff had not adequately pled that she had exhausted her administrative remedies with respect to timely filing a charge of discrimination with the appropriate local or state authority or with the EEOC. The Court gave Plaintiff leave to amend her Complaint to include facts related to exhaustion. One day later, on April 9, 2008, Plaintiff so amended with no additional substantive changes to her Original Complaint. Instead of answering the Amended Complaint, Defendants filed the instant frivolous motion.

Defendants' current motion is entirely inappropriate, given the Court's prior ruling entirely rejecting the very arguments Defendants now simply reassert. The Court incorporates its previous Order herein by reference as if fully set forth. None of the cases cited in the one new paragraph (number nine) of the instant motion add anything to Defendants' previous arguments, which were entirely rejected. The Court has already found that it has subject matter jurisdiction over this matter and that a claim has been stated for violations of federal laws 42 U.S. C. §§2000e-2 and 2000e-3. The Court found that Plaintiff's state law claims are clearly related to the federal claims, such that the Court will also exercise pendant jurisdiction under 28 U.S.C. § 1367.

Defendants are cautioned that the Court does not look favorably upon the filing of frivolous motions, asserting positions that are entirely unsupported by legal authority, or otherwise acting to delay these proceedings. Defense counsel is reminded of his obligations to the Court as a member of the Bar, as well as the requirements of Federal Rule of Civil Procedure 11. Defendants shall answer or otherwise respond to the Amended Complaint within three (3) days of the date of this Order or risk a default judgment being entered against them.

SO ORDERED.

DATED: April 30, 2008

  
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JANE J. BOYLE  
UNITED STATES DISTRICT JUDGE